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WORKMEN'S COMPENSATION AND THE INDUSTRIES OF MASSACHUSETTS

BY JAMES A. LOWELL,

Chairman Massachusetts Commission on Employers' Liability and Workmen's Compensation.

Massachusetts is different from other states in that its industries are almost entirely of the kind known as the light trades. We have no mines in Massachusetts, and the heavier trades, such as the building of big bridges and things of that kind, we have very little of. Our state is a manufacturing state, and the cotton and woolen mills are the principal parts of the industry. The cotton and woolen industry takes up about fifty-one per cent of the number of employees in the state, and, if we add to that light manufacturing, it brings it up to sixty-five per cent. In order to have a workmen's compensation act, state insurance act, any kind of an act, one must cover not only the hazardous trades covered in the New York bill, but one must cover every trade, the cotton, woolen and silk manufacture, and also other manufactures that are not extra-hazardous. We cannot pick out one, two, three, seven or eight industries, and call them hazardous. We must pass a law that will cover accidents in all industries. The bill which we did not report to the legislators, because we were not entirely satisfied with it, but the bill which we called our tentative act, and on which we had several hearings, was a measure of that character.

Everyone in Massachusetts agrees that the present law is bad, and I shall merely state two or three of the bad objections to it. The first and the worst feature of it, from the point of view of economy, at least, is that under the present law, as all laws in the United States, you cannot get anywhere without a law suit, and that fact brings into prominence the fact that the money paid out by the employer of labor is three-fourths of it wasted in law suits. I am a lawyer, and perhaps should not talk against my own trade. Of course, that kind of an act in Massachusetts is very good for me, but it is not good for anyone else. It wastes seventy-five cents for every twenty-five cents that gets to the person who ought to

get one hundred cents, or at least ninety cents. You must have a law which will take one hundred cents from the employer and get just as many as possible of the one hundred cents to the employees, without their being wasted in expenses of various kinds.

The act which we proposed was one covering all employments where there were more than four regular employees. It did away with our present Employers' Liability Act and substituted in its place a workmen's compensation act. It left our common law in force, the reason being largely that it was thought necessary for legal reasons to leave it, but the bill provided—and I think the provision a very important one, although I have not heard emphasis put upon it—that the payments to be made should be equal payments of a certain percentage of the wages; fifty per cent we took. We think that a fair way of dividing it up, because it divides the loss between the employer and employee. The employer pays fifty per cent and the employees contribute their loss of wages, and pain and suffering. That is the nearest to justice, it seems to me, that we can get. We put in the requirement that it should be paid weekly, for two reasons. The first reason was that we think there would be a great many cases in which the immediate payment of say \$2000 in one lump sum would cause the recipient to squander the money. Another reason for paying in dribblets, so to speak, is that the unscrupulous lawyer should not have anything to get too large a payment from. The reason lawyers take cases under the present law, the reason for ambulance chasers, is that there is a possibility of recovery in some cases of \$10,000, and a possibility for the lawyer to make a charge of from \$2,000 to \$2,500, a glittering prize in the eyes of unscrupulous men.

The law we proposed left a two weeks' waiting period, and we gathered certain statistics of accidents which happened during a ten weeks' period of the last year. We have not, of course, statistics of sufficient number and duration to make a foundation for scientific theory, but they show that all but about twelve per cent of the injuries which occurred during that period lasted less than two weeks. That shows two things; that by far the larger proportion of injuries are not serious, and that a new law will not be so expensive as many people have feared. In Massachusetts, the principal difficulty the commission had and still has, is in forming some guess as to what a proper law will cost. I am talking about

this from the standpoint of the business man. Many of the people have talked about workmen's compensation in a way which, as chairman of a commission, I should call a little sentimental. It is said the present law is bad, let us have a new one, we do not care what it costs. I am sorry to say that a commission cannot go about it in that way, much as it may desire.

We were brought up against the argument that if we add to the cost of our industries, we cannot compete with the mills of Rhode Island. In order to find out what the cost of the present system was, we got returns from employers of labor during the year 1909, and we found, much to our surprise, that the insurance cost was a certain amount, and that the employers who had insured, also paid out for employees—for claims which employees made, which were not covered by the policy, money for hospitals and that sort of thing—a sum amounting to eighty-five per cent more; so that the employers' total liability cost in Massachusetts is almost double what the mere insurance cost is. Then we came to the conclusion that it was very probable that a new law which did away with a large part of the present litigation, would cost the manufacturers of Massachusetts very little more than twice what they are spending for insurance under the present law.

I want to say a word about the outlook in Massachusetts. In New York everyone is despondent. I am courageous enough to think that we need not be disheartened by the decision of the Court of Appeals in New York. I think that the way the courts of Massachusetts have treated laws looking toward the amelioration of the condition of labor, shows that they very likely would not follow the New York decision. We in Massachusetts look forward confidently to getting some kind of a law, either a workmen's compensation law, or insurance law, which will do away with the present evils without crippling the industries of the state.